

Appl. No.: 10/771,805  
Amdt. Dated: 07/08/2008  
Off. Act. Dated: 04/09/2008

### **REMARKS/ARGUMENTS**

Reconsideration of this application is respectfully requested in view of the discussion presented herein.

1. Rejection of Claims 1-10 and 17-28 under 35 U.S.C. § 102(e).

Claims 1-10 and 17-28 were rejected under 35 U.S.C. § 102(e) as being anticipated by Lamkin (U.S. Publ. No. 2006/0159109). Claims 1, 10, 17, and 24-28 are the independent claims within the above group of claims.

After carefully considering the grounds for rejection the Applicant responds as follows.

The published Lamkin application (U.S. Serial No. 11/303,507) was filed December 16, 2005, which is 21 months after the filing date of the instant application, which is February 4, 2004. Thus, this specific reference is not prior art.

However, the examination uses text from this non-prior art Lamkin reference without reciting where this material is found within any associated priority documents for this Lamkin application.

Applicant has reviewed the preceding applications to which Lamkin 2006/0159109 derives a filing date benefit, and is unable to find in these any recitations of the subject matter relied upon from this later (non-prior art) Lamkin case.

Specifically, none of these cases were found to describe “*detecting of new content*” as recited for paragraphs [0005] and [0006] for the Lamkin 2006/0159109. Thus, support is lacking for the rejection because no support is provided from the priority documents which recite these aspects.

Support for additional other aspects of the claims are not found even within the Lamkin 2006/0159109 reference itself. In particular, “*receiving new content within a request from a user*”, is asserted to be found in paragraph [0069] of Lamkin 2006/0159109. However, in this section Lamkin only discusses the ability to access photos, and does not describe “*receiving content within a request*”. This problem trickles down through the remaining aspects of the recited claims, as Lamkin is not

Appl. No.: 10/771,805  
Amdt. Dated: 07/08/2008  
Off. Act. Dated: 04/09/2008

directed to handling of requests which contain new content and the associated process steps as recited in Applicant claims.

Support for an anticipation rejection requires that every claim element must be taught or inherent in a single prior art reference, Manual of Patent Examining Procedure (MPEP) §706.02a. The above claims at issue are thus not anticipated by the relied-upon Lamkin reference.

Therefore, the applicant respectfully asserts that the relied-upon reference is not itself a prior art reference, and no specific priority documents have been put forth containing the relied-upon teachings. In addition, the non-prior art document itself contains additional shortcomings. Applicant respectfully requests that the rejection of Claims 1, 10, 17, and 24-27, and the claims that depend therefrom, be withdrawn.

2. Amendment of Claims 1, 10, 17 and 24-28.

Independent Claims 1, 10, 17 and 24-28 have been amended toward alleviating any antecedent strain regarding the phrasing “multiple devices” found in the body of many claims. The term “multiple devices” was incorporated within the preamble of these claims, such as in Claim 1: “*synchronizing content across multiple devices, including a plurality of client devices and a server*”.

3. Amendments Made Without Prejudice or Estoppel.

Notwithstanding the amendments made and accompanying traversing remarks provided above, Applicant has made these amendments in order to clarify antecedent issues and matters of form without materially changing the scope or object of the claims. These amendments have been made without any prejudice, waiver, or estoppel, and without forfeiture or dedication to the public, with respect to the original subject matter of the claims as originally filed or in their form immediately preceding these amendments. Applicant reserves the right to pursue the original scope of these claims in the future, such as through continuation practice, for example.

Appl. No.: 10/771,805  
Amdt. Dated: 07/08/2008  
Off. Act. Dated: 04/09/2008

4. Conclusion.

Based on the foregoing, the Applicant respectfully requests that the various grounds for rejection in the Office Action be withdrawn and that a Notice of Allowance be issued for Claims 1-10 and 17-28.

In the event any further matters remain at issue with respect to the present application, Applicant respectfully requests that the Examiner please contact the undersigned below at the telephone number indicated in order to discuss such matter prior to the next action on the merits of this application.

Date: July 8, 2008

Respectfully submitted,



John P. O'Banion, Reg. No. 33,201  
M. Robyn Carrillo, Reg. No. 47,474  
Rodger H. Rast, Reg. No. 45,853  
O'BANION & RITCHEY LLP  
400 Capitol Mall, Suite 1550  
Sacramento, CA 95814  
(916) 498-1010